

FILED

AUG 24 2015

**SECRETARY, BOARD OF
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR
AGENCY ACTION OF ENEFIT AMERICAN
OIL FOR AN ORDER ENLARGING THE
DESIGNATED OIL SHALE AREA CREATED
BY CAUSE NOS. 190-3 AND 190-13 TO
INCLUDE LANDS LOCATED IN TOWNSHIPS 9
AND 10 SOUTH, RANGES 24 AND 25 EAST,
SLM, UINTAH COUNTY, UTAH.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER FOR
FEDERAL AND FEE LANDS**

Docket No. 2015-017

Cause No. 190-14

This matter came before the Board on Wednesday, May 27, 2015, at approximately 9:30 a.m. in the auditorium of the Utah Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The following Board members were present and participated in the hearing: Ruland J. Gill, Jr., Chairman, Susan S. Davis, Gordon L. Moon, Chris Hansen, Richard Borden, Carl F. Kendell, and Michael Brown. The Board was represented by Michael S. Johnson, Assistant Attorney General.

Testifying on behalf of Petitioner, Enefit American Oil ("Enefit"), was Rikki Hrenko-Browning, CEO, and Michael D. Vanden Berg, Geologist, Utah Geological Survey. Enefit was represented by Mark L. Burghardt of Holland & Hart, LLP.

Attending on behalf of the Division of Oil, Gas and Mining (the "Division") was John Rogers, Associate Director, Oil and Gas, Dustin Doucet, Petroleum Engineer, and Brad Hill, Oil and Gas Permitting Manager. Dustin Doucet testified on behalf of the Division. The Division was represented by Steven F. Alder, Assistant Attorney General.

The Board, having fully considered the testimony and exhibits in this matter, being fully advised, and for good cause shown, hereby enters the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Enefit is a Delaware Corporation in good standing, with its principal place of business in Salt Lake City, Utah. Enefit is qualified to do business in Utah and is fully and appropriately bonded with all Federal and State of Utah agencies.

2. The Request for Agency Action included federal, state, and fee properties. This matter was continued as to the lands owned by the State of Utah, identified in the Request for Agency Action as the "SITLA Leases." The May 27, 2015 Hearing in this matter proceeded as to the federal and fee lands, described as follows:

a. BLM Lease UTU-84087:

Township 10 South, Range 24 East, SLM

Section 22: E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 27: NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 13: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$

Section 14: S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$

Section 23: All

Section 24: All

Section 25: W $\frac{1}{2}$ W $\frac{1}{2}$

Section 26: All

Section 35: N $\frac{1}{2}$ N $\frac{1}{2}$

Township 10 South, Range 25 East, SLM

Section 18: All

Section 19: All

- b. **Orion Reserves Limited Partnership (Purchase Option) [Parcel Nos. 09.113.0001, 09.114.0001, 09.112.0002, 09.115.0002, 09.116.0002, 09.117.0002, 09.118.00020]:**

Township 10 South, Range 25 East, SLM

Section 8: NW $\frac{1}{4}$, S $\frac{1}{2}$

Section 9: E $\frac{1}{2}$

Section 10: W $\frac{1}{2}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 16: NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$

Section 17: All

Section 20: N $\frac{1}{2}$

Section 21: N $\frac{1}{2}$

(the "Subject Lands").

3. Enefit is currently in the process of developing a commercial oil shale project in Uintah County, Utah.

4. As of June 8, 2001, the Board adopted specific standards for individual oil shale areas by Orders in Cause Nos. 190-3 and 190-13. In particular, the order in Cause No. 190-13 enlarged the Designated Oil Shale Area created by Cause No. 190-3.

5. Since 2001, when the previous Board orders were issued, Enefit has acquired additional lands in Uintah County, including the Subject Lands.

6. Evidence presented by Enefit confirmed the presence of a substantial and valuable oil shale resource underlying the Subject Lands. This oil shale resource varies by depth throughout the Subject Lands, sometimes existing at a depth in excess of 1,100 feet.

7. A copy of the Request was mailed to the last known addresses of record for all persons having a legally protected interest in the Subject Lands and those owners within a one-half mile radius of the Subject Lands by certified mail, return receipt requested.

8. Notice of the filing of the Request and of the hearing was duly published in the Salt Lake Tribune and the Deseret Morning News on May 3, 2015, and the Uintah Basin Standard and the Vernal Express on May 5, 2015.

9. The vote of the Board members present at the hearing was unanimous in favor of granting the Request.

CONCLUSIONS OF LAW

10. Due and regular notice of the time, place, and purpose of the hearing was properly given in the form and manner as required by law and the rules and regulations of the Board and Division to all parties whose legally protected interests are affected by the Request.

11. The Board has jurisdiction of the parties and of the subject matter pursuant to Utah Code Ann. § 40-6-1. *et seq.* and Utah Admin. Code R649-3-31.

12. Enefit has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for granting the Request.

ORDER

Based upon these findings of fact and conclusions of law, the Request, and testimony and other evidence submitted by Enefit, the Board hereby orders:

1. The Request in this matter is granted as to the Subject Lands.

2. The previously created Designated Oil Shale Area from Cause Nos. 190-3 and 190-13 is enlarged to include the Subject Lands, which are established as a Designated Oil Shale Area in accordance with Utah Admin Code R649-3-31.

3. The specific standards identified in the Order in Cause No. 190-13 are imposed on the Subject Lands.

4. Oil and gas operators must comply with the provisions of Utah Admin. Code R649-3-31.

5. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-204 through 208, and of the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641.

6. This order is based exclusively upon evidence of record in this proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63G-4-208, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.

7. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** As required by Utah Code Ann. § 63-G-4-208(e) through (g), the Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this order by filing an appeal with the Supreme Court of the State of Utah within 30 days after the date this order is entered. Utah Code Ann. § 63G-4-401(3)(a) and 403.

8. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this order. Utah Code Ann. § 63G-4-302. The Utah Administrative Procedures Act provides:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied. *Id.*

The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled “Rehearing and Modification of Existing Orders” state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month. Utah Admin. Code R641-110-100.

The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving

to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within 30 days thereafter.

9. The Board retains exclusive and continuing jurisdiction of all matters covered by this order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

10. The Chairman's signature on a facsimile copy of this order shall be deemed the equivalent of a signed original for all purposes.

DATED this 24th day of August, 2015.

STATE OF UTAH
BOARD OF OIL, GAS, AND MINING

By: 
Ruland J. Gill, Jr., Chairman

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of August, 2015, I caused a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR FEDERAL AND FEE LANDS** for Docket No. 2015-017, Cause No. 190-14, to be mailed by Email or via First Class Mail with postage prepaid, to the following:

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